

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

SOUTHERN DIVISION

APPEAL PROCEDURE

(Applicable to all programs administered by the Agricultural Adjustment Administration, beginning with the 1941 programs)

GENERAL PROVISIONS

SECTION 1. Matters Which May be Appealed.—An appeal may be taken from the recommendation or determination of the county committee or the State committee with respect to any matter affecting the right to or the amount of payment or deduction with respect to any farm or ranch or any other matter respecting the participation of the person or the farm or ranch in the program in question, such as eligibility to file an application for payment, any soil-depleting acreage allotment, usual acreage, normal or actual yield, measurement, or the division of payment.

SEC. 2. Who May Appeal.—An appeal may be taken by any person who has an interest as landlord, tenant, or sharecropper in the farm or who is the operator or joint operator of the ranch, with respect to which any recommendation or determination by the county committee or State committee is made. Only a person who shows that he is adversely affected by the outcome of any request for reconsideration or appeal may appeal the matter further, but any person who, as landlord, tenant, or sharecropper having an interest in the operation of the farm involved, or as operator of the ranch involved, would be affected by the decision to be made on any reconsideration by the county committee or subsequent appeal shall be given a full and fair hearing if he appears when the hearing thereon is held.

SEC. 3. To Whom Appeal Should be Made.—In cases where the recommendation or determination complained of was made by the county committee, the appeal must be made in the first instance to the county committee. The appeal to the county committee is in the nature of a request that it reconsider its initial recommendation or determination with which the person appealing (called the appellant) is dissatisfied. If the appellant is dissatisfied with the final decision of the county committee, he may appeal to the State committee. If the appellant is dissatisfied with the decision of the State committee upon his appeal to it or with its recommendation or determination in any matter which was not appealed to it, he may request the Director of the Southern Division to review the decision, recommendation, or determination of the State committee.

SEC. 4. Time and Manner of Filing Appeal.—Appeals to the county and State committees and requests for review to the Director of the Southern Division must be in writing signed by the

person making the appeal or his authorized agent. Each appeal must contain or be accompanied by a written statement, in duplicate, containing such information and argument as the appellant believes to be pertinent to the case. An appeal to the county committee must be filed with such committee within 15 days after notice of the recommendation or determination appealed from is mailed to, or made available to, the appellant. An appeal to the State committee must be filed with such committee within 15 days after the decision of the county committee from which the appeal is taken is mailed to or made available to the appellant. A request for review by the Director of the Southern Division must be filed with such Director within 15 days after the decision, recommendation, or determination of the State committee from which the appeal is taken is mailed to, or made available to, the appellant. An appeal which is placed in the mails and is postmarked before midnight on the fifteenth day will be considered as having been timely filed.

SEC. 5. Right of Appellant to Appear.—Any person filing an appeal may appear and present evidence and argument in person or by representative before the county committee, the State committee, or the Regional Appeals Committee at the time his appeal is considered, provided he so requests in writing at the time of filing his appeal.

SEC. 6. New Evidence.—Any new evidence, newly discovered or otherwise, of a material nature, which is presented by the appellant in any case after the decision of the county committee and prior to a decision by the Director of the Southern Division will necessitate the return of the appeal for reconsideration and a new decision (within corresponding time limits) by the committee(s) which had previously rendered a decision thereon, except that, (a) if the appellant in any case under consideration by the State committee wherein the recommendation of the county committee was favorable to the appellant desires to dispense with further proceedings before the county committee, he may submit his case for decision by the State committee on the record as it then stands or as it may be supplemented by additional evidence tendered by him within a time to be fixed by the State committee or the appeals clerk, which date shall not be earlier than that indicated by the appellant as the date on which he will be ready to submit his case to the State committee, and (b) the Regional Director may not require such return if he is satisfied that the record is such that he may reach a fair decision without the benefit of the judgment of the county and State committees in the light of the new evidence.

SEC. 7. Basis for Making Decisions.—All appeals to the county or State committee and all questions involved in requests to the Director of the Southern Division for review shall be decided in accordance with the applicable regulations and instructions.

COUNTY COMMITTEE PROCEDURE

SEC. 8. Time and Place of Hearing.—The county committee shall fix a time and place for the consideration of each appeal filed with such committee, and, if the appellant has requested the right to appear, the committee shall give the appellant at least three days written notice of such time and place.

SEC. 9. Hearing, Investigations, and Record.—In connection with each appeal, the county committee shall study the record in the case, make or cause to be made such investigations as are necessary for a proper reconsideration of its original recommendation or determination, request the presence of the persons and documents necessary for a proper reconsideration of the case, and hold the hearing at the time and place fixed. The committee shall make a complete written verbatim report of the hearing and of its decision, giving a clear, concise statement of the facts asserted by the appellant and those found by the committee to be the material facts and of the reasons for its decision. The report shall show all persons present at the hearing and be accompanied by the documents admitted in evidence, which shall be identified by exhibit numbers endorsed thereon.

SEC. 10. Copies of Decision.—Within 15 days after receipt of an appeal, the county committee shall mail to the appellant and to the State committee a copy of its decision upon said appeal. Written notice of the decision shall also be issued to each person known to the county committee who, as landlord, tenant, or sharecropper having an interest in the operation of the farm or ranch involved, may be adversely affected by the decision. Where an appeal is made to the State committee from such decision, the county committee, upon the request of the State committee, shall forward to the State committee the complete record in the case and shall render such assistance in connection with the further proceedings in the case as the State committee may request.

STATE COMMITTEE PROCEDURE

SEC. 11. Designation and Duties of Appeals Clerk.—The State committee shall designate a competent person in the State office to act as appeals clerk to assist in the handling of appeal cases. The duties of such person shall be:

(a) To receive appeal cases and keep a complete record of the same.

(b) To fix a time and place for the consideration of each appeal and, if the appellant has requested the right to appear, to give such appellant and the applicable county committee at least 5 days written notice of such time and place.

(c) To request the applicable county committee to furnish the record in each case and such other assistance in connection with the proceedings in the case as may be necessary.

(d) In any case of the kind described in the exception contained in clause (a) of section 6 hereof, to arrange for an immediate hearing of the case if the State committee is in session and the appellant is present and is satisfied to submit his case for decision by the State committee without submitting additional evidence; to fix a date for the hearing of the case if the appellant is not present at the time and does not desire to submit additional evidence; to fix a date for the hearing of the case if (i) the appellant states, verbally if present and in writing if absent, that he is not prepared to present his case for decision by the State committee although he does not then intend to submit additional evidence, or (ii) the appellant states verbally, if

present and in writing if absent, that he intends to submit additional evidence, which date in either case shall not be earlier than the date indicated by the appellant as that on which he will be ready to submit his case; and to see to it that a verbatim report of the hearing is kept.

(e) To prepare a written report on each case and present the case in detail to the State committee at the time and place fixed for the hearing of the case.

(f) To mail a copy of the decision of the State committee to the appellant and to the applicable county committee within 30 days after the receipt of the appeal by the State committee, meaning thereby the receipt of the final submission of the case on such appeal. Written notice of the decision shall also be issued to each person known to the State committee who, as landlord, tenant, or sharecropper having an interest in the operation of the farm or ranch involved, may be adversely affected by the decision.

(g) Where a request for review is made to the Director of the Southern Division from the decision of the State committee, to forward to the Director the original of the complete appeal record (including a verbatim transcript of the oral testimony, if any); and upon receipt of a decision, in triplicate, from the Director of the Southern Division, to mail one copy to the appellant and one copy to the applicable county committee and to file one copy with the record of the case in the State office.

PROCEDURE BY DIRECTOR OF THE SOUTHERN DIVISION

SEC. 12. Regional Appeals Committee.—Upon receipt of a request for review of a decision by a State committee, the Director of the Southern Division will refer the case to a Regional Appeals Committee (composed of three employees of the Division appointed by him from time to time or for the particular case), which shall:

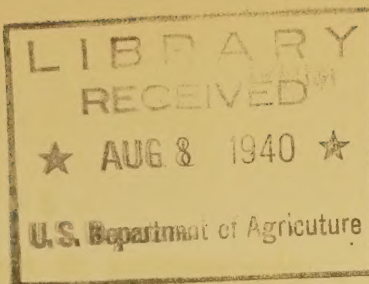
(a) Review the entire record in the case, make such investigations as it deems necessary, and give a full and fair hearing to the appellant or his representative if request therefor is made at the time the request for review is filed.

(b) Prepare a written report (including a verbatim report of its hearing if one is held) and recommendation and submit the same to the Director of the Southern Division together with the complete record in the case.

SEC. 13. Decision of Director of the Southern Division.—Upon receipt of the report and recommendation of the Regional Appeals Committee, the Director of the Southern Division will review the entire record in the case and make his decision thereon. He will cause such decision to be prepared in quadruplicate and will mail three copies thereof to the applicable State committee, and retain the fourth copy in the files of the Southern Division.

I. W. DUGGAN,
Director, Southern Division.

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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
SOUTHERN DIVISION

APPEAL PROCEDURE UNDER THE WHEAT CROP INSURANCE PROGRAM

PART I. - GENERAL PROVISIONS

- A. The time limit for filing appeals, the manner of filing and the time limit for handling appeals which are filed under the Wheat Crop Insurance Program in connection with wheat yields and premium rates will be the same as the time limits set forth in SRM-510, "Appeal Procedure."
- B. Any determination with respect to appeals on wheat yields or premium rates shall be made on the basis of individual merit.
- C. Producers have 15 days in which to file an appeal after notice of their wheat yield and premium rate has been mailed to them. At the expiration of that period, the county committee shall take such action as they deem proper, in keeping with the regulations, with respect to the appeals filed. The county committee should then submit all appeals to the State office in accordance with the instructions contained herein as promptly as possible. Notice of the decision of the county committee shall not be forwarded to the appellant until the decision of the State committee is received.

Upon approval of an appeal by the State office, the county office should be notified and application for insurance can be taken on the basis of the yield and rate so approved. If the Branch Office later disapproves the action of the State committee and an application for insurance is received from the appellant, notice of confirmation will not be issued by the Branch Office.

In cases where the State committee does not concur with the county committee in their decision on an appeal, the approval of the Branch Office shall be secured before the county office is notified of the action taken. When a request for review is taken to the Director of the Southern Division, he will confer with representatives of the Federal Crop Insurance Corporation before notifying the State office of his decision.

- D. Where an appeal is approved by the county committee with respect to the yield on the farm, they should also give consideration to any necessary adjustment in the premium rate for the farm, to properly reflect the risk to the Corporation, based on the newly approved yield.

PART II. - INSTRUCTIONS IN CONNECTION WITH APPEALS ON
WHEAT YIELDS AND PREMIUM RATES

A. General.

- (1) If the land covered by the application for crop insurance is identical with the land covered by the work sheet executed in connection with the current Agricultural Conservation Program, any change in the yield for a farm will apply to the current Crop Insurance and Agricultural Conservation Programs, if the farm yields are the same for both programs, and to the farm marketing quota, if applicable. If such land is not identical, the yield shall be determined for each separately owned tract on which an appeal is filed and weighted by the acreage allotment for such farm and combined with the corresponding weighted yields for the other units to arrive at the yield for the combined ACP farm. In counties where the crop insurance yield differs from the normal yield established for individual farms under the Agricultural Conservation Program, if an appeal is granted with respect to the crop insurance yield for a farm, consideration shall be given to an adjustment of the ACP yield for such farm.
- (2) The data for all farms for which appeals on wheat yields or premium rates have been filed with the county committee will be listed on an FCI listing sheet conspicuously marked "Appeals Listing Sheet." A block of five lines shall be used for each farm on which an appeal has been filed. On the first line of each block, the original data approved for the farm will be entered in red ink. The data based on the approved appeal shall be entered below in jet black ink. If the appeal is not approved, the words "Appeal Not Approved" will be entered below the original data on the listing sheet.
- (3) The county committee shall forward the "Appeals Listing Sheet" together with the original and one copy of their recommendations in each case, to the State office. The copy will be filed in the Crop Insurance Section of the State office, and if the appeal is granted, the original will be forwarded to the Branch Office. If the appeal is not approved by the State office, the Branch Office copy will be retained in the State office. If an appeal is approved by the State committee, the county committee shall, upon notice of such approval, record such change on the applicable crop insurance and ACP listing sheets and other related papers. Written notification of the action taken on all appeals shall be given to all interested producers by the county office.
- (4) If an appeal has been filed and the crop insurance application is submitted before a final decision on the appeal is rendered, the application shall be prepared and the premium paid on the

basis of the original yield and the premium rate shown on the approved crop insurance listing sheet. If, after the submission of the application, an appeal is approved, the basis for insurance shall be changed accordingly when any additional premium required is paid. When a change due to an appeal results in a decrease of the yield or an increase in the rate, a new application shall be prepared and plainly marked "Corrected Application." Where the yield is increased or the rate is reduced, it will not be necessary to prepare a corrected application and the change in the basis of the contract can be explained by a memorandum submitted to the State office, in duplicate, showing the change in the yield and the rate. The original of this memorandum shall be forwarded by the State office to the Branch Office. This memorandum shall be submitted prior to or at the time the "Notice of Seeding" is submitted for the farm. The cash equivalent of any additional premium shall be determined on the basis of the price of wheat for the day the premium was paid on the original application. If any additional premium required by such revised figures is not paid within a reasonable period, the original application shall be the basis for the insurance contract and a notice to that effect shall be sent to the applicant. Ordinarily, 30 days after notice of such figures has been given the applicant would be considered a reasonable period.

- (5) When an appeal is approved, the premium shall be computed in the county office in the usual manner. A memorandum shall be prepared, in triplicate, showing the amount of premium originally collected, the amount of premium based on the corrected application, and the amount of the difference. One copy of the memorandum should be retained in the county office. The original should be attached to the Branch Office copy of the "Receipt" if payment is made in cash. If payment is made by means of an advance from the Secretary, the original should be attached to the original of the "Notice of Seeding." The remaining copy should be forwarded to the State office. Any additional premium should be collected and handled in the routine way. If the premium has been paid by means of an advance from the Secretary, the payment of the additional premium will be automatically cared for upon receipt of the "Notice of Seeding." If the change in the contract involves a reduction in the amount of premium, the memorandum should call to the attention of the Branch Office the necessity of making refund in accordance with the regulations of the Corporation. In such cases, the original of the memorandum should be forwarded immediately to the Branch Office.
- (6) The regular closing date for the acceptance of an application for crop insurance shall be applicable to farms upon which an appeal has been filed. However, such closing date will not apply to the adjustments in a contract because of the approval of an appeal.

B. Appeals on Wheat Yields.

- (1) If the county average yield, as a result of appeals, differs from the county check yield to such an extent that it will not round to the county check yield, it will be necessary to revise the yields of individual farms by applying a factor. However, if the difference is so small that the county average yield will round to the county check yield, it will not be necessary to apply the factor. In considering appeals with respect to wheat yields, the county committee shall follow the instructions set forth in the current "County Yield and Rate Procedure" and related instructions with respect to the establishment of such yields in connection with each case.
- (2) The county committee shall approve wheat yield appeals only in those cases where the examination of the data shows:
 - (a) Error in the data used, or if the producer presents accurate and applicable wheat yield records which substantiate his appeal.
 - (b) Error in computation or entry of figures.
 - (c) Errors in earlier determinations of the county committee.
 - (d) Error in the application of the provisions of the current "County Yield and Rate Procedure" in regard to appraisals.
- (3) If, in the consideration of an appeal, either the yield or rate, or both, are taken through the usual routine steps as outlined in the current "County Yield and Rate Procedure," to arrive at a newly approved figure, such figure shall be scaled by using the same factor as was used in revising the yields and premium rates on the approved listing sheets. If an adjustment is made only in the originally approved final yield or final rate, such factoring will not be necessary.

C. Appeals on Premium Rates.

- (1) Any determination with respect to appeals on premium rates shall be made on the basis of individual merit. If the county average of the premium rate differs from the check premium rate by 0.01 of a bushel or more, it will be necessary to revise the premium rates for all farms in the county by applying a factor. However, if the difference is less than 0.01 of a bushel, it will not be necessary to apply a factor. In considering appeals

with respect to premium rates, the county committee shall follow the instructions set forth in the current "County Yield and Rate Procedure" and related instructions with respect to the establishment of such premium rates in connection with each case.

- (2) The county committee shall approve revised premium rates in accordance with the applicable procedure contained in the current "County Yield and Rate Procedure."

I. W. Duggan

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Director, Southern Division.

